

Part 2  
**DEFINITIONS**

(NOTE: ALL GREEN TEXT IS SHARED BETWEEN THE MDEP AND AUGUSTA ORDINANCES)

**§ 300-201 General definitions. [Amended by Ord. No. 176-07]**

~~A.~~—In the interpretation and enforcement of this chapter, all words shall carry their customary dictionary meanings. For the purpose of this chapter, certain words and terms used herein are defined as follows. Words used in the present tense include the future tense; words used in the singular include the plural; and words used in the plural include the singular.

**BUILDING** - Includes the word "structure."

**CITY** - The City of Augusta.

**LOT** - Includes the words "plot" and "parcel."

**MUNICIPAL OFFICERS** - The City Council.

**PERSON** - Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**SHALL** - Is always mandatory; the word "may" is permissive.

**USED or OCCUPIED** - As applied to any land or building, shall be construed to mean, also, "intended, arranged, or designed to be used or occupied."

~~B.~~—The symbol "''" shall be construed to mean "linear feet."

**§ 300-202 Additional definitions. [Amended 1-21-1992 by Ord. No. 303; 2-17-1993 by Ord. No. 26; 6-20-1994 by Ord. No. 546; 4-23-2001 by Ord. No. 37; 5-6-2002 by Ord. No. 210; 10-7-2002 by Ord. No. 281; 8-25-2003 by Ord. No. 100; 10-16-2006 by Ord. No. 170; 2-20-2007 by Ord. No. 027; 2-20-2007 by Ord. No. 028; 6-4-2007 by Ord. No. 109; 2-5-2009 by Ord. No. 016; 6-3-2010 by Ord. No. 084A; 2-3-1011 by Ord. No. 11-019; 6-16-2011 by Ord. No. 11-71; 12-1-2011 by Ord. No. 166]**

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY STRUCTURE OR USE** - A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. Accessory uses and structures must comply with all conditions and standards for the location or use and which have been permitted by the Planning Board for the location or use. A deck or similar extension of the principal structure, or a garage attached to the principal structure by a roof or a common wall, is considered part of the principal structure. Accessory residential structures and uses include, but are not limited to, private garages with less than four vehicles; swimming pools; greenhouses operated by and for use by the family living in the residence; and satellite dishes. Accessory structures or uses also include amateur radio and citizen band radio towers exceeding 35 feet (excluding antennas) in height above the ground. Such towers less than 35 feet in height above the ground are permitted by right (no permit required).

**ADJACENT GRADE** - The natural elevation of the ground surface before construction next to the proposed walls of the structure.

**ADULT BUSINESS ESTABLISHMENT** - Any business otherwise permitted as a retail business or service establishment, including but not limited to any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater, of which a substantial or significant portion consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials, devices, or activities of any kind which appeal to prurient interests and which depict or describe specified sexual activities, or videotapes rated X, NC-17, or classified as suitable for adults or persons 18 years of age or older, or are displayed in a portion of a facility open only to persons older than 18 years of age.

**AGGRIEVED PARTY** - ~~A person~~ An owner of land whose land or property is directly or indirectly affected by the granting or denial of a permit or variance under this chapter; or a person whose land or property abuts land or property for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance. For the purposes of a Planning Board decision, an aggrieved party must have also participated in person, through an authorized representative, or in writing at a public hearing related to the decision being appealed.  
[Amended 6-4-2007 by Ord. No. 109]

**AGRICULTURE** - The production, keeping or maintenance for sale or lease of plants and/or animals, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

**AQUACULTURE** - The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**AREA OF LAND IN NONCONFORMING USE** - Includes building footprint, accessory structures, storage and parking areas and all areas on the property associated with the operation of the nonconforming use. "Area in nonconforming use" also includes all land area within the outer limits of the above-noted structures, storage and parking areas, including yards and setback areas. Undisturbed or natural areas on the same lot as the nonconforming use and outside the area described above shall not be used in calculating the area in nonconforming use.

**AREA OF SHALLOW FLOODING** - The designated AO and AH Zone on the City's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** - The land in the floodplain having a one-percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study, cited in Part 5, Performance Standards, of this chapter.

**AUTOMOBILE BUSINESS** - Establishments primarily engaged in the sales, repair, and/or service of automobiles, mobile homes, farm machinery, motorcycles, ATVs, and similar activities, including but not limited to auto repair garages, filling stations, car washes, machinery

repair, auto sales, farm machinery sales and services, house trailer sales, manufactured housing and similar activities. Retail automobile parts and supplies are not considered automobile businesses. Where specifically listed, auto sales may include auto repair; auto repair shall not include auto sales.

**AUTO REPAIR/SERVICE** - Establishments primarily engaged in providing repair and replacement services for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers, including the sale, installation, and servicing of equipment and parts. Establishments in this industry group employ mechanics with specialized technical skills to diagnose and repair the mechanical and electrical systems for automotive vehicles, repair automotive interiors, and paint or repair automotive exteriors.

**BARBER/BEAUTY SHOP** - Establishments primarily engaged in one or more of the following:

- A. Cutting, trimming, shampooing, weaving, coloring, waving or styling hair;
- B. Providing facials and/or manicures/pedicures; and
- C. Applying makeup.

**BASAL AREA** – The area of cross-section of a tree stem at 4 ½ feet above the ground level and inclusive of bark.

**BASE FLOOD** - The flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the "one-hundred-year flood."

**BASEMENT** - Any area of a building having its floor subgrade (below ground level) on all sides. Any portion of a structure with floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**BASE SITE AREA** - That portion of a parcel as calculated pursuant to Part 3, Article IV, Site Capacity Analysis, of this chapter; the extent to which a site is developable.

**BED-AND-BREAKFAST/TOURIST HOME** - A place that advertises itself as a bed-and-breakfast where the public for a fee may obtain overnight accommodations that include a sleeping room or rooms and at least one meal per day.

**BOAT LAUNCHING FACILITY** – A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**BUFFER YARD** - A unit of land, together with a specified type and amount of planting thereon, and any structures such as but not limited to fences, retaining walls and berms, which may be required between land uses to eliminate or minimize conflicts.

**BUILDING** - See "structure."

**BUILDING HEIGHT (MAXIMUM)** - The vertical height from the sidewalk or finished grade at the center of the front of a building to the highest point of the roof surface, if a flat roof; to the deckline for mansard roofs; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs. For purposes of applying regulations in shoreland areas, the height of a structure

shall be the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

**BUREAU OF FORESTRY** – State of Maine Department of Agriculture, Conservation and Forestry, Bureau of Forestry.

**BUSINESS PARK** - A planned development designed and arranged for business and professional uses, uses that are accessory or that provide services to business and professional uses.

**BUSINESS/PROFESSIONAL ASSOCIATIONS** - Establishments primarily engaged in promoting the business and/or professional interests of their members and the profession as a whole. These establishments may conduct research; develop statistics; sponsor quality and certification standards; lobby public officials; or publish newsletters, books, or periodicals for distribution to their members.

**BUSINESS/PROFESSIONAL SERVICES/OFFICES** - A room or group of rooms used for conducting the affairs of a business or professional entity, not entailing the sale of goods except that which is clearly incidental. Examples of business/professional offices and services include but are not limited to doctors; dentists; consultants; engineers; realtors; insurance agents; and lawyers' offices; artist's studio.

**CALIPER** - A measurement of the size of a tree equal to the diameter of its trunk, measured six inches above natural grade for trees having calipers less than or equal to four inches diameter, and measured 12 inches above grade for tree calipers greater than four inches diameter.

**CAMPGROUND** - Any area or tract of land to accommodate ~~accommodating for a fee (2)~~ two or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters. Considered a recreational use of land for purposes of this chapter.

**CANOPY** – The more or less contiguous cover formed by tree crowns in a wooded area.

**CEMETERIES** - Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries and funeral establishments shall be included when operated within the boundary of such cemetery.

**CEO** - See "Code Enforcement Officer."

**CERTIFICATE OF OCCUPANCY AND COMPLIANCE** - A document signed by the Code Enforcement Officer stating that a structure or development is in compliance with all applicable provisions of this chapter.

**CHANNEL** - See "watercourse."

**CHILD-CARE FACILITY** - See "day-care center."

**CHURCH** - A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**CITY ENGINEER** - The City Engineer may be a regular employee of the City or a consultant

to the City. The individual designated as City Engineer shall be a registered professional engineer, licensed by the State of Maine.

**CIVIC, SOCIAL, AND FRATERNAL ORGANIZATIONS** - Establishments primarily engaged in promoting the civic and social interests of their members.

**CLUSTERED (OR PLANNED UNIT) RESIDENTIAL DEVELOPMENT** - Land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, lots or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land. Development may be a single operation or a programmed series of operations, including all lands and buildings, with provision for operation and maintenance of such areas, facilities and improvements necessary for common use by occupants of the development.

**COASTAL WETLAND** - All tidal and subtidal lands; ~~all lands below any identifiable debris line left by tidal action;~~ all lands with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest maximum spring-tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**CODE ENFORCEMENT OFFICER (CEO)** - Any person responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

**COMMERCIAL USE** - The use of lands, buildings, or structures, other than a home occupation, defined herein, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units. Uses considered commercial by this chapter are found in the Standard Industrial Classification Manual under the following category headings: Retail Trade; Finance, Insurance and Real Estate Services; Wholesale Trade. All uses listed in the Table of Land Uses in the Base Zoning Districts,<sup>[1]</sup> except those listed under the "Residential" subsection, shall be considered commercial uses by this chapter.

**COMMUNICATIONS FACILITY** - See "utility."

**COMPACT AREA** - For purposes of this chapter, the "compact area" of the City of Augusta shall mean that area contained within the "Revised Urban Boundaries" shown on "Map of Compact Area, Augusta, Kennebec County, Maine," prepared by the State of Maine Department of Transportation, Bureau of Planning, in cooperation with the United States Department of Transportation, Federal Highway Commission (1975). Said map is hereby incorporated into this chapter and shall be maintained on file with the Official Zoning Map. For purposes of this chapter, except with respect to the provisions of OBDS, the compact area of the City of Augusta shall also include the Urban Growth Area designated in the 1988 Growth Management Plan.

**CONDITIONAL USE** - A permitted use which may not be appropriate without restriction in a particular district, but which, in the opinion of the Planning Board, if controlled as to number, location, relation to the neighborhood, site design, operational aspects, traffic generation, impact on public facilities and implementation of performance standards, would promote the public safety, health, convenience or welfare. A conditional use shall be allowed in a district only if the

regulations for that district specifically permit it, subject to the approval of the Planning Board, and only when the Board finds that such use meets all of the requirements applicable to it as specified in this chapter.

**CONFERENCE CENTER** - A facility used for conferences and seminars, with accommodations for food preparation and eating, entertainment, resource facilities, and meeting rooms. The total floor area of a conference center shall not exceed 20,000 square feet.  
[Added 11-20-2014 by Ord. No. 14-191]

**CONSTRUCTION SERVICES** - Any of the activities commonly referred to as "construction" and shall include but not be limited to plumbing, heating, electrical, roofing, carpentry, interior remodeling, and equipment rental.

**CONVENTION FACILITY** - A building, or portion thereof, designed to accommodate 300 or more people in assembly. [Added 11-20-2014 by Ord. No. 14-191]

**CORRECTIONAL INSTITUTION** - A publicly or privately operated facility generally designed for the confinement, correction, and rehabilitation of adult and/or juvenile offenders sentenced by a court.

**COURT** - A publicly operated facility used for the purposes of trying and sentencing individuals suspected or guilty of committing a criminal offense or for hearing and deciding on civil disputes.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) CROSS-SECTIONAL AREA – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**CUSTOMARILY** - More often than an average of one calendar week during any calendar month of operation.

**DAY-CARE CENTER** - A facility licensed by the state primarily engaged in providing nonresidential social assistance, including care, supervision, and protection, during daytime hours to more than 12 children or adults who are not all related to each other by blood or marriage and who are not legal wards or foster children of the care providers, and which is not being used as a residence by the care providers. Services may include child day care, nonmedical home care or homemaker services, social activities, group support, and companionship.

**DAY-CARE HOME** - A residence in which care is given during daytime hours to no more than 12 persons of various ages and which may or may not be licensed according to the state's criteria. This use differs from a day-care center in that it is conducted by persons who are living in the home at which the day care is being provided. Day-care homes must also meet the standards for home occupations.

**DBH/DIAMETER AT BREAST HEIGHT** - A measurement of the size of a tree equal to the



diameter of its trunk measured 4.5 feet above natural grade. (SIMILAR ENOUGH TO MDEP DEFINITION: the diameter of a standing tree measured 4.5 feet from the ground level).

**DENSELY DEVELOPED AREA** - Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per two acres.

**DEVELOPMENT** - Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities. (MDEP Definition: a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.)

A. **MAJOR DEVELOPMENT** - Any multifamily or nonresidential development project that:

- (1) Creates more than 25,000 square feet of new floor space in the CD or IA Zones; or
- (2) Creates more than 10,000 square feet of new floor area in zones not listed in Subsection A(1) above; or
- (3) Disturbs more than 43,560 square feet of land; or
- (4) Creates more than 43,560 square feet of new impervious surface; or
- (5) New construction that generates more than 100 trips in the peak hour for the proposed use; or
- (6) Proposes a new wireless communications facility that will require construction of a new tower; or
- (7) Proposes the construction, erection, or placement of a fixed, portable or temporary bituminous mix plant or ready mix concrete plant.

B. **MINOR DEVELOPMENT** - Any multifamily or nonresidential development project that:

- (1) Creates between 5,000 and 25,000 square feet of new floor area in the CD and IA Zones; or
- (2) Creates between 1,000 and 10,000 square feet of new floor area in zones not listed in Subsection B(1) above; or
- (3) That disturbs between 10,000 and 43,560 square feet of land; or
- (4) Creates between 10,000 and 43,560 square feet of new impervious surface; or
- (5) Creates four or more residential units in a preexisting single-family, duplex or multifamily structure; or

- (6) New construction that generates between 35 and 99 trips in all zoning districts, except CD and IA, in the peak hour for the proposed use; or
- (7) Any change of use where the proposed use requires 25% more on-site parking, as calculated using the parking requirements in this chapter, than the applicant proposes to make available on site; or
- (8) Proposes co-location of a wireless communications facility on an existing tower that will require construction of a new equipment shed; or
- (9) All uses proposing to construct a drive-through service or vehicle refueling pumps that do not otherwise qualify for major or minor development review.

C. **OTHER DEVELOPMENT** - Requiring a permit from the CEO if listed as a permitted use or requiring a permit from the Planning Board if listed as a conditional use.

**DIMENSIONAL REQUIREMENTS** - Numerical standards relating to spatial relationships, including but not limited to setback, lot area, road frontage, shore frontage, height, floor area and impervious surface factors and ratios and open space ratios.

**DIRECT LIGHT** - Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

**DISABILITY** - Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**DISCHARGE** - The outflow of water, silt or other mobile substances passing along a conduit, watercourse, or a channel or released from detention storage.

**DISCONTINUANCE OF NONCONFORMING USE** - Complete cessation or abandonment of a use evidenced by removal of all advertising signs, or removal of all contents of the structure necessary to conduct the business, or allowing the building to become dilapidated or by changing to a conforming use.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) **DISRUPTION OF SHORELINE INTEGRITY** - The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**DRAINAGE** - The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during or after development and includes the means necessary for water supply preservation or for prevention or alleviation of flooding.



**DRAINAGEWAY** - See "watercourse."

**DRIVEWAY** - A paved or unpaved area used for ingress and egress of vehicles from a street or road right-of-way to buildings or other structures or facilities on a lot. When said distance of driveway between the street right-of-way and structures/facilities is longer than 100 feet in length, it shall meet the minimum requirements identified in the Augusta Technical Standards Handbook for an emergency access lane. A shared driveway for up to two adjacent lots shall be allowed if there is a recorded driveway easement that runs with the land and if each lot has the minimum required lot frontage on a street/road right-of-way. The easement must describe the maintenance and repair responsibilities of each party. A shared driveway shall meet the minimum requirements of § 5.4 of Augusta's Technical Standards Handbook. In the shoreland zone, a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**DWELLING, MULTIFAMILY** - A residential structure containing three or more dwelling units.

**DWELLING, ONE-FAMILY** - A residential structure containing one dwelling unit.

**DWELLING, TWO-FAMILY** - A residential structure containing two dwelling units.

**DWELLING UNIT** - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.-

**EARTH, EARTH REMOVAL** - Includes topsoil (loam), sand, gravel, and clay taken from the land. "Earth removal" shall mean the extraction of topsoil, sand, gravel, and clay from the earth. See "development," "earth filling" and "mineral extraction."

**EDUCATIONAL SERVICES** - Use of land or a building or buildings for the establishment and maintenance of a public or private college, secondary or elementary school or other educational institution that is designed, constructed, or used for education or instruction of persons in any branch of knowledge.

**ELEVATED BUILDING** - A nonbasement building or structure:

- A. Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or stilts; and
- B. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of floodwaters.

**ELEVATION CERTIFICATE** - An official form (FEMA Form 81-31, 05/90, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program and is required as a condition for purchasing flood insurance.

**EMERGENCY OPERATIONS** - ~~Emergency operations shall include o~~Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**EROSION** - The detachment and movement of soil, organic matter or rock fragments by water, wind, ice or gravity.

**ESSENTIAL SERVICES** - ~~The construction, alteration or maintenance of g~~Gas, electrical or communications facilities; steam, fuel, telephone, electric power or water transmission or distribution lines, towers and related equipment; telephone cables of lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. For the purposes of this chapter, such systems may ~~do not~~ include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not ~~nor do such systems~~ include service drops or buildings which are necessary for the furnishing of such services.

**EXPANSION OF A STRUCTURE** - An increase in the footprint floor area or volume of a structure, including all extensions, such as but not limited to attached decks, garages, ~~patios,~~ porches and greenhouses. Expansion of a structure shall not include construction of stairways, fire escapes or other changes as mandated by federal, state or local building or safety codes.

**EXPANSION OF USE** - The addition of ~~weeks or one or two~~ months to a use's operating season; additional hours of operation; ~~or the use or addition of more~~ footprint floor area of a structure or ground area devoted to a particular use. See § 300-309 providing for modifications to nonconforming uses.

**FAMILY** - One or more persons occupying a premises and living as a single housekeeping unit.

**FARM STAND** - A structure for the display and sale of farm products primarily grown on the property upon which the stand is located; may also involve the accessory sales of other unprocessed foodstuffs, home-processed food products, and homemade handicrafts.

**FILLING STATION** - Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, and including as an accessory use the retail sale and installation of lubricants, tires, batteries, and similar vehicle accessories. A filling station is not a repair garage or a body shop. See "automobile business."

**FINANCE, INSURANCE, AND REAL ESTATE SERVICES** - Establishments such as banks and financial institutions, credit agencies, investment companies, brokers of and dealers in securities and commodities, security and commodity exchanges, insurance agents, lessors, lessees, buyers, sellers, agents, and developers of real estate.

**FIXTURE** - The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**FLAG LOT** - See "lot, flag."

**FLOOD ELEVATION STUDY** - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**FLOOD INSURANCE RATE MAP (FIRM)** - An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD or FLOODING -**

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) of this definition.

**FLOODPLAIN MANAGEMENT** - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works, and floodplain management regulations.

**FLOODPLAIN OR FLOOD-PRONE AREA** - Any land area susceptible to being inundated by water from any source. (See definition of "flood or flooding.")

**FLOODPROOFING** - Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** - See "regulatory floodway."

**FLOOR AREA** - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**FLOOR AREA ~~RATIO-FACTOR~~** - A ratio derived by dividing the total floor area by the net buildable site area.

**FLOORING SHOWROOM** - A retail business establishment where flooring materials are exhibited for sale or where samples are displayed.

**FOOTPRINT** - The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) **FOREST MANAGEMENT ACTIVITIES** - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) **FOREST STAND** - A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**FORESTED WETLAND** - A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**FOUNDATION** - The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, sills, posts or frost walls, or other base consisting of concrete, block, brick or similar material.

**FREEBOARD** - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect or urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**FREQUENTLY FLOODED** - See "hydric soils." Flooding likely to occur often under usual weather conditions; more than a fifty-percent chance of flooding in any year or more than 50 times in 100 years.

**FRESHWATER WETLANDS** - Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- A. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- B. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**FUEL WOOD PRODUCTION** - The mechanized processing of wood into any length less than tree length, not accessory to a timber harvest, when not burned or consumed on site.

**[Added 1-17-2013 by Ord. No. 13-008]**

**FUNCTIONALLY/WATER-DEPENDENT USES** - With respect to § 300-508, Flood damage prevention standards, "functionally dependent use" means a principal use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. With respect to shoreland zoning regulations, § 300-316.1, "functionally water-dependent uses" are those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing,

fish-related storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal and inland ~~marine or tidal~~ waters. Recreational boat storage buildigns are not considered to be a functionally water-dependent use.

**FUNERAL HOME** - A building used for the preparation of the deceased for burial and display and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this chapter, includes a funeral chapel.

**GARAGE, PRIVATE** - An accessory residential building, or part of a principal residential building, including a carport, used primarily for the storage of motor vehicles.

**GARDEN CENTER** - An enterprise where plants either imported or grown on the site are sold, at retail and wholesale, as well as accessory items directly related to the planting, harvesting, maintenance and care of plant life, including plants, shrubs, trees, packaged fertilizers, soils, chemicals, garden tools, gifts, and other nursery goods and similar accessory and ancillary products in small quantities. This activity includes greenhouses. This activity does not include the sale, either retail or wholesale, of power equipment, such as gas or electric lawnmowers and farm implements, or of gravel.

**GENERAL SURFACE WATER RESOURCE AREAS** - Areas along all brooks, streams, wetlands and natural drainageways not protected by M.R.S.A. Title 38 but considered to have value in their natural state for the maintenance of biotic systems and in their capacity to carry stormwater.

**GFA** - See "gross floor area."

**GLARE** - Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**GOVERNMENT OFFICES** - A room or group of rooms used for conducting the affairs of a government entity, not entailing the sale of goods except that which is clearly incidental.

**GOVERNMENT SERVICES** - For the purposes of this chapter, "government services" shall include the functions performed by the various government agencies in the City. Government services shall include but not be limited to the following: capitol, administration, courts, jails, public safety (police, fire and emergency/rescue), public schools, postal services, public works and municipal utilities.

**GOVERNMENT USES** - Any building, site, or use owned, operated, or facilitated by any governmental entity or agency.

**GREAT POND** - Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres, except, for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Note: All ponds in Augusta are Great Ponds.

**GREAT POND CLASSIFIED GPA** - Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A § 465-A. This classification includes some, but not all, impoundments of rivers that are defined as "great ponds." Note: All ponds in Augusta are Great Ponds.

**GREENHOUSE** - A building used for the cultivation of plants whose roof and sides are made largely of glass or other transparent or translucent material.

**GROSS FLOOR AREA** - The sum of the gross area of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

A. In particular, floor area generally includes:

- (1) Basement space, except as specifically excluded.
- (2) Elevator shafts or stairwells at each floor.
- (3) Floor spaces in penthouses.
- (4) Attic space (whether or not a floor has been laid) providing structural headroom of seven feet, six inches, or more.
- (5) Floor space in interior balconies or mezzanines.
- (6) Any other floor space used for dwelling purposes, no matter where located within a building.
- (7) Floor space in accessory buildings, except for floor space used for accessory off-street parking.
- (8) Any other floor space not specifically excluded.

B. However, the gross floor area of a building shall not include:

- (1) Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- (2) Elevator or stair bulkheads, accessory water tanks, or cooling towers.
- (3) Uncovered steps.
- (4) Attic space (whether or not a floor actually has been laid) providing structural headroom of seven feet, six inches.
- (5) Floor space used for mechanical equipment.

**GROUND COVER** – Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**GROUP HOMES** - A residential care facility licensed by the State of Maine, wherein persons



not legally related to the operator are provided personal care, supervision and social or rehabilitative services. The facility serves as a substitute for the residents' own homes, furnishing facilities and comforts normally found in a home but providing, in addition, such service, equipment, and safety features as are required for safe and adequate care of the residents. "Group home" includes community living uses, as defined in 30 M.R.S.A. § 4962-A,[2] but does not include foster family homes or nursing homes.

**HABITAT, SIGNIFICANT WILDLIFE** - Areas designated by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. §§ 480-A through 480-S, and described in § **300-316.1C(1)** of this chapter.

**(NOT NEEDED IF TIMBER HARVESTING REPEALED) HARVEST AREA** - The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**HAZARD TREE** - A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**HEAVY EQUIPMENT REPAIR** - Establishments primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment. May include the rental, but not sales, of heavy equipment.

**HEIGHT OF A STRUCTURE** - See "building height (maximum)."

**HISTORICAL SOCIETY** - A nonprofit membership organization dedicated to the preservation of historical documents, materials, and artifacts and promoting an increased awareness of these items. Such organizations often make historical documents, materials, and artifacts available to the wider public by providing research opportunities, museums and display areas, interpretive programs, lecture series at their site, and other accessory uses, sometimes for a fee.

**HISTORIC STRUCTURE** - Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**HOME OCCUPATION** - An occupation or profession which is customarily conducted on or in a residential structure or property and which:~~carried on in a residential dwelling unit or structure accessory to the dwelling unit which:~~

- A. Is clearly incidental to and compatible with the residential use of the property and surrounding residential uses;~~use of the dwelling for residential purposes;~~
- B. Occupies no more than 30% of the floor area of all structures on the property;
- C. Does not change the outside appearance of the residential dwelling unit or premises;
- D. Is conducted entirely within the dwelling unit or accessory structure; and
- E. Employs no more than two persons other than family members residing in the home.

**HOSPITALS** - Institutions, licensed by the State Department of Health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities, or training facilities.

**HOTEL (MOTEL, MOTOR LODGE, TOURIST COURT)** - A building or group of buildings in which more than 16 rooms are used to offer transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

#### **HYDRIC SOIL CRITERION**

- A. All histosols except folists; or
- B. Soils in aquic suborders, aquic subgroups, albolls suborder, salorthids great group, or pell great groups of vertisols that are:
  - (1) Somewhat poorly drained and have water table less than 0.5 foot from the surface for a significant period (usually a week or more) during the growing season; or
  - (2) Poorly drained or very poorly drained and have either:
    - (a) Water table at less than one foot from the surface for a significant period (usually a week or more) during the growing season if permeability is equal to or greater than six inches/hour in all layers within 20 inches; or

- (b) Water table at less than 1.5 feet from the surface for significant period (usually a week or more) during the growing season if permeability is less than six inches/hour in any layer within 20 inches; or
- C. Soils that are ponded for long duration or very long duration during the growing season; or
- D. Soils that are frequently flooded for long duration or very long duration during the growing season.

Source: The National Technical Committee for Hydric Soils (USDA Soil Conservation Service, [3] 1987).

**HYDRIC SOILS** - Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part (USDA Soil Conservation Service, 1987). In general, hydric soils are flooded, ponded, or saturated for usually one week or more during the period when soil temperatures are above biologic zero 41° F., as defined by "Soil Taxonomy" (U.S.D.A. Soil Survey Staff, 1975). These soils usually support hydrophytic vegetation.

**IESNA** - Illuminating Engineering Society of North America, an internationally recognized authority on lighting design. Publishers of RP-33-99.

**IMPERVIOUS SURFACE** - Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, paved or graveled parking and driveway areas, sidewalks and paved recreational facilities.

**IMPERVIOUS SURFACE RATIO** - A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a site by lot area.

#### **IMPROVEMENT TO A STRUCTURE**

Internal modification, including alterations and renovations, and window replacement, as well as minor exterior modifications necessary for health and safety such as but not limited to fire escapes and means of egress. Reroofing and placement of siding is not considered improvement to a structure.

**INCREASE IN NONCONFORMITY OF A STRUCTURE** - Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**INDIVIDUAL PRIVATE CAMPSITE** - An area of land which is not associated with a ~~commercial~~ campground, but which is used for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to a gravel pads, parking areas, fire places, or tent platforms.

**INDUSTRIAL USES** - Those establishments which create new (or altered) products from raw materials or other product through various processes for ultimate distribution and sale. The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals. See "manufacturing (heavy)" and "manufacturing (light)."

**INSTITUTIONAL USES** - For the purposes of this chapter, or unless otherwise specified, institutional uses include public and private schools, nursing homes, religious activities and associated uses and funeral homes. (MDEP Definition: a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.)

**INTERMITTENT STREAM** - See "stream."

**JUNKYARD** - See "waste facility, Class 2." A junkyard shall be considered and reviewed as a Class II waste facility and shall include the following:

- A. **AUTOMOBILE OR MOTOR VEHICLE WRECKING YARD, JUNKYARD OR GRAVEYARD** - An open outside area occupied by three or more unregistered, unserviceable, discarded or junked automotive vehicles or bodies, engines or their parts, sufficient in bulk to equal three vehicles, and including the commercial salvaging of any other goods, articles or merchandise. "Junkyard" does not include tire storage or operations associated with tire storage such as shredding and processing. (See "waste facility.")
- B. **JUNKYARD OR AUTOMOBILE GRAVEYARD** - An open outside area used for the storage, keeping, sorting, processing, baling or abandonment of junk, including but not limited to scrap metals or other materials such as paper, rags, bottles, machinery or parts thereof. "Junkyard" differs from "recycling center" in that recycling operations are wholly contained indoors.

**LAND LEASE COMMUNITY** - See "manufactured housing park."

(NOT NEEDED IF TIMBER HARVESTING REPEALED) LAND MANAGEMENT ROAD - A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**LAUNDRY SERVICES** - Establishments primarily engaged in one or more of the following:

- A. Providing dry-cleaning services;
- B. Providing laundering services, including self-service coin-operated machines for use on the premises;
- C. Providing dropoff and pickup sites for laundries and/or dry cleaners; and

- D. Providing specialty cleaning services for specific types of garments and other textile items (except carpets and upholstery), such as fur, leather, or suede garments; wedding gowns; hats; draperies; and pillows.

**(NOT NEEDED IF TIMBER HARVESTING REPEALED) LICENSED FORESTER - A forester licensed under 32 M.R.S.A. Chapter 76.**

**LICENSED PLUMBING INSPECTOR (LPI)** - An individual licensed by the State of Maine Department of Human Services to review and inspect requests for internal and external plumbing permits.

**LIGHT MANUFACTURING** - See "manufacturing (light)."

**LIGHT TRESPASS** - The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

**LOADING SPACE, OFF-STREET** - Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included in off-street parking space in the computation of required off-street parking space.

**LOCALLY ESTABLISHED DATUM** - For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

**LOT** - For purposes of this chapter, a lot is a registered or recorded parcel of land of at least sufficient size to meet minimum zoning requirements for use and dimensions and to provide such yards and other open spaces as are herein required. For the purposes of this chapter, an easement shall not be considered a lot.

**LOT AREA** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**LOT, FLAG** - A back lot or parcel which meets special area requirements of the zone in which it exists, has no less than 40 feet of frontage on a public road which provides access designed in accordance with § 300-505, Driveway and access standards. See § 300-507, Flag lot standards.

## **LOT LINES**

- A. **FRONT** - The line separating any lot from a street or streets.
- B. **REAR** - A lot line which is opposite and most distant from the front lot line; in the case of a triangular or irregular lot, a line 10 feet long within the lot, parallel to and farthest from the front lot line.
- C. **SIDE** - Any lot line not a front or rear lot line.

## **LOT MEASUREMENTS**

- A. **LOT FRONTAGE** - The fee simple or leasehold boundary line of a lot which extends along a recorded or recordable street/road right-of-way which meets the minimum width requirements for the intended use on said lot. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section. Double frontage lots may consider all front footage in determining minimum frontage requirements.
- B. **LOT, DOUBLE FRONTAGE** - A lot abutting two parallel streets, or abutting two intersecting streets at points removed from their juncture.
- C. **LOT DEPTH** - The distance between the midpoint of straight lines connecting the foremost points of the side lot line in front and the rearmost points of the side lot lines in the rear.
- D. **LOT WIDTH** - The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. For purposes of applying shoreland regulations, minimum lot width shall be considered to be the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**LOT OF RECORD** - Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the Kennebec County Registry of Deeds.

**LOWEST FLOOR** - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements found in Part 5, Performance Standards, of this chapter.

**LPI** - Licensed plumbing inspector.

**LUMEN** - A unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of this chapter, the lumen output values shall be the initial lumen output ratings of a lamp.

**LUMINAIRE** - This is a complete lighting system, and includes a lamp or lamps and a fixture.

~~**MAINE EROSION AND SEDIMENTATION CONTROL HANDBOOK FOR CONSTRUCTION** - The handbook developed and published by the Department of Environmental Protection, first draft dated April 15, 1990, and titled "Urban BMPs." The handbook is intended to replace the Environmental Quality Handbook prepared by the Maine Soil and Water Conservation Commission.~~

**MANUFACTURED HOME** - See "manufactured housing."

**MANUFACTURED HOUSING** - A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported by the use of its own chassis or an independent chassis to a building site. The term includes any type of building which is



constructed at a manufacturing facility and then transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this chapter, two types of manufactured housing are included. Those two types are:

- A. **TYPE I** - Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained in the unit;
  - (1) This term also includes any structure which meets all the requirements of this paragraph, except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standard established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, § 5401 et seq.; and
- B. **TYPE II** - Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.
- C. For purposes of flood damage prevention standards, the term "manufactured housing" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**MANUFACTURED HOUSING PARK/LAND LEASE COMMUNITY** - For purposes of flood damage prevention rules and regulations, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MANUFACTURING (HEAVY)** - Heavy manufacturing shall include industrial uses, including assembly, fabrication, processing, packaging, storage, distribution, or other industrial processing of products, in which manufacturing processes are conducted indoors or out of doors and in which external evidence of the manufacturing process is detectable out of doors, and shall include any establishment or facility using large unscreened outdoor structures that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Heavy manufacturing, for the purposes of this chapter, includes but is not limited to wood fiber products manufacturing; chemical manufacturing; textile mills; steel fabrication; manufactured housing manufacturing; roof truss manufacturing; sawmills, turneries and fuel wood production; dairies; grain mills; seafood products production; and beverage manufacturing.

**MANUFACTURING (LIGHT)** - Light manufacturing shall include industrial uses, including manufacturing, assembly, fabrication, processing, packaging, storage, distribution, or other processing of products, in which manufacturing processes are wholly contained within a building

and which exhibit no external evidence of a manufacturing process such as but not limited to noise, odor, vibration, dust, smoke, cinders, or fumes.

**MARINA** - A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, ~~bait boat~~ and tackle shops and marine fuel service facilities.

**MARKET VALUE** - The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**MEAN SEA LEVEL** - For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on Augusta's Flood Insurance Rate Map are referenced.

**MEDICAL CLINIC** - A facility operated by two or more licensed practitioners of the healing arts providing medical, psychiatric, or surgical service for sick or injured persons or for the examination, diagnosis, health maintenance, and treatment of persons solely on an outpatient basis.

**MEDICAL GUESTHOUSE** - A facility exclusively used by patients and their families visiting Augusta to access services at the Alford Center for Health and the Alford Center for Cancer Care. [Added 2-6-2014 by Ord. No. 14-017]

**MEDICAL MARIJUANA GROW-ONLY FACILITY** - A facility that engages only in the growing and processing of medical marijuana in accordance with state law, but does not dispense marijuana. Processing of medical marijuana may include, but is not limited to, the preparation of tinctures, ointments, and food products containing medical marijuana.

**MH and MHP** - As used in this chapter, "MH" is equivalent to "mobile home" or "manufactured housing"; "MHP" is equivalent to "mobile home park" and "manufactured housing park."

**MINERAL EXPLORATION** - Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**MINERAL EXTRACTION ACTIVITY** - Any operation where soil, topsoil, loam, sand, gravel, clay, rock, peat, or other mined material is removed from its natural location or where it is handled. All of the land area disturbed or otherwise developed for the extraction, removal, handling, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil, including any access roads and cleared areas adjacent to a pit or excavated area, structures, office building, parking lots and stockpiles, is considered to be a part of the mineral extraction site or area.

Accessory uses may be conducted at a mineral extraction activity site. (MDEP Definition: any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.)

**MINIMUM LOT WIDTH** - See "lot measurements": "lot width."

**MINOR FLOODPLAIN DEVELOPMENT** - All development that is not new floodplain construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to accessory structures as provided for in this chapter, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**MOBILE HOME** - See "manufactured housing."

**MOBILE HOME PARK** - A parcel of land under unified ownership approved by the municipality for the placement of three or more units of manufactured housing.

**MODULAR HOME** - See "manufactured housing."

**MULTIPLE-FAMILY DWELLING/MULTI-UNIT RESIDENTIAL** - A residential structure containing three or more residential dwelling units.

**MUNICIPAL OR PUBLIC UTILITIES AND COMMUNICATIONS FACILITIES** - The use of land for public utility purposes by an entity providing pipeline, gas, electrical, telephone, telegraph, water, or sewage service. "Public utility" also includes the use of land for utility purposes, whether or not owned, controlled, or operated by a public entity, whose services are performed for or commodities delivered to the public or any portion thereof. Facilities that provide for the transmission, transfer, and distribution of telephone service and related activities that are not a minor or major utility facility. For the purposes of this chapter, a municipal or public utility or communications facility includes, but is not limited to, the following: a private telephone company or paging service, any utility regulated by the Maine Public Utilities Commission, and any other commercial communications tower.

**A. MAJOR MUNICIPAL OR PUBLIC UTILITIES/COMMUNICATIONS**

**FACILITIES** - Any public service improvement or structure developed by or for a public agency that is not defined as a "minor public facility," including but not limited to water, sanitary treatment plants, electric transmission lines and electric generation plants.

**B. MINOR MUNICIPAL OR PUBLIC UTILITIES/COMMUNICATIONS FACILITIES**

- Any public service improvement or structure developed by or for a public agency that is not defined as a "major public utility or communications facility," including but not limited to pumping and pressure control stations, standpipes, reservoirs, wells and other water storage structures, telephone equipment huts (over 200 square feet) and electricity regulating substations.

**C. WIRELESS MUNICIPAL OR PUBLIC UTILITIES/COMMUNICATIONS**

**FACILITIES** - Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phones services, specialized mobile radio communications (SMR), common-carrier wireless exchange phone services, and personal communications services (PCS) or pager services.

**MUSEUM** - A nonprofit, permanent institution in the service of society and its development,

open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment. [Added 5-7-2015 by Ord. No. 15-070]

**NATIVE – Indigenous to the local forests.**

**NEIGHBORHOOD GROCERY/VARIETY STORE** - A small convenience retail establishment which does not include gasoline refueling facilities. See "convenience retail."

**NET BUILDABLE SITE AREA** - The calculated area of the buildable portion of a lot after deducting minimum required open space for residential projects, or required floor area factor for nonresidential projects, from the base site area.

**NEW CONSTRUCTION** - Structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by the City of Augusta in July of 1987.

**NEW FLOODPLAIN CONSTRUCTION** - Structures for which the start of floodplain construction commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**NEW STRUCTURE OR STRUCTURES** - Any structure for which construction begins on or after September 23, 1988, and including any subsequent improvements to such structures. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of applying subdivision regulations. See "subdivision."

**NGVD** - The National Geodetic Vertical Datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). See "mean sea level."

**NONCONFORMING BUILDING OR STRUCTURE** - A structure which does not meet any one or more of the following dimensional requirements: setback, floor area ratio, height, ~~or~~ lot coverage or footprint, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

**NONCONFORMING CONDITION – Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.**

**NONCONFORMING LOT** - A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the area, frontage, width, depth, or impervious surface requirements of the district in which it is located.

**NONCONFORMING USE** - Use of buildings, structures, premises, land or parts thereof which is not ~~allowed permitted~~ in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

**NON-NATIVE INVASTIVE SPECIES OF VEGETATION** - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**NORMAL HIGH-WATER MARK (LINE) NON-TIDAL WATERS** - That line which is apparent from visible markings, ~~or~~ changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

**NORTH AMERICAN VERTICAL DATUM (NAVD)** - The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**NURSERY SCHOOL/PRESCHOOL** - A school for children who are ineligible to attend kindergarten classes as offered by either the public or private school systems in the City. For the purposes of this chapter, a nursery school shall be viewed as a day-care center.

**NURSING HOME (CONVALESCENT HOME, REST HOME)** - A facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in the state, for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term "nursing home" or "nursing facility" is restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service.

**ONE-HUNDRED-YEAR FLOOD** - See "base flood."

**OPEN SPACE** - Land used for recreation, resource protection, amenity and/or buffers. In no event shall any area of a lot constituting the minimum lot area of said lot nor any part of any existing or future road or right-of-way be counted as constituting open space.

**OPEN SPACE RATIO** - A ratio derived by dividing open space by the base site area.

**OUTDOOR LIGHTING** - The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**OUTLET STREAM** - Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**PARK** - A natural or landscaped area, buildings, or structures provided to meet the active or passive recreational needs of people and for the preservation and exhibition of natural areas or settings. Examples include but are not limited to wildlife sanctuaries, conservation areas, nature centers or preserves.

A. **PUBLIC** - A park provided by a unit of government.

B. **PRIVATE** - A park provided by a private entity.

**PARKING LOT** - A parcel or area of land designed for the parking of motor vehicles.

**PARKING SPACE, OFF-STREET** - A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

**PERMANENT FOUNDATION** - Any of the following:

A. A full, poured concrete or masonry foundation;

B. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;

C. A reinforced, floating concrete pad for which the City of Augusta may require an engineer's certification if it is to be placed on soil with high frost susceptibility; or

D. Any foundation which, pursuant to the Building Code for the City of Augusta, is permitted for other types of single-family dwellings.

**PERMITTEE** - Any person, firm, or corporation receiving a permit from the City of Augusta.

**PERSON** - An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**PERSONAL SERVICES** - Establishments primarily engaged in providing individual services but not goods involving the care of a person or his or her personal goods and apparel. Examples include but are not limited to salons/spas, massage facilities, tailor shops and clothing rental services, and other services, unless the use is defined elsewhere in this chapter.

**PHARMACY** - A place where drugs and medicines are prepared and dispensed. Nonprescription medicines, personal care items, cosmetics, food supplements, medical care devices, and nonmedical supplies may also be sold. A pharmacy may include the sale of convenience retail items, not including gasoline.

**PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE WITHIN A WETLAND**

A. **TEMPORARY** - Structures which remain in or over the water for less than seven months in any period of 12 consecutive months.

B. **PERMANENT** - Structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

**PLANNED UNIT DEVELOPMENT** - A development in which clustering of units or uses permits better land use practices to be employed. See "clustered residential development."



**PREMISES** - Land with or without the buildings and structures thereon.

**PRINCIPAL BUILDING/STRUCTURE** - The building or structure occupied by the chief or principal use on the premises. *(MDEP definition: a structure other than which is used for purposes wholly incidental or accessory to the use of another structure of use on the same lot.)*

**PRINCIPAL USE** - The primary use to which the premises are devoted and the main purpose for which the premises exist. *(MDEP definition: A use other than one which is wholly incidental or accessory to another use on the same lot.)*

**PUBLIC FACILITY** - Any facility, including but not limited to buildings, property, recreation areas, and roads, which is owned, leased or otherwise operated or funded by a governmental body or public ~~nonprofit~~ entity.

**PUBLIC SAFETY SERVICES** - Facilities operated by public agencies to provide services relating to the general health, safety, and welfare of the population, including but not limited to fire stations and other fire prevention and firefighting facilities; police and sheriff substations and headquarters, including interim incarceration facilities; and emergency response services.

**PUBLIC UTILITY** - See "municipal or public utilities and communications facilities."

**REAL ESTATE OFFICES** - Establishments primarily engaged in acting as agents and/or brokers in one or more of the following: selling real estate for others; buying real estate for others; and renting real estate for others.

**RECENT FLOODPLAIN SOILS** - The following soil series as described and identified by the National Cooperative Soil Survey: Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, Winooski.

**RECREATIONAL AREA/FACILITY** - A place designed and equipped for the conduct of indoor and/or outdoor sports, leisure-time activities, and other customary and usual recreational activities, excluding boat launching facilities.

A. **PRIVATE** - A recreation facility operated by a private organization and open only to members and guests.

B. **PUBLIC** - A recreation facility operated by a public organization and open to the general public.

**RECREATIONAL VEHICLE** - A vehicle or an attachment to a vehicle built on a single chassis; 400 square feet or less when measured at the largest horizontal projection, not including slideouts; designed to be self-propelled or towed ~~by a motor vehicle;~~ and designed ~~primarily~~ for temporary sleeping or living quarters for one or more living persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer and motorhome. for recreational, camping, travel, or seasonal use. In order to be considered as a vehicle and not as a structure, the unit must remain ~~on its tires~~ with its tires on the ground and must be registered with the road-worthy (i.e., possess a current registration sticker from any State Division of Motor Vehicles)).

**RECYCLING CENTER** - A personal service use located and operated primarily for the convenience of residents of a community or region and devoted to the collection (or redemption) and separation of household nonorganic waste products for eventual reprocessing and recycling

(off site) into new products for sale to the general public. Recycling centers which handle waste from business, commerce and industry are considered waste facilities. "Recycling center" does not include septage processing or composting facilities.

### **REGULATORY FLOODWAY**

- A. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year base-flood without cumulatively increasing the water surface elevation more than one foot in height; and
- B. In Zone A, the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.

**RELIGIOUS ACTIVITIES AND ASSOCIATED USES** - A structure or place where persons regularly assemble for worship, ceremonies, rituals, education, and related social events pertaining to a particular system of beliefs, and which structure or place, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. "Religious activities and associated uses" includes but is not limited to churches, religious temples, convents, monasteries, parsonages, rectories, religious camps and retreat sites.

### **REPLACEMENT SYSTEM - A system intended to replace:**

- A. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
- B. Any existing overboard wastewater discharge.

**RESEARCH, EXPERIMENTAL, AND TESTING LABORATORIES** - A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESIDENTIAL DWELLING UNIT** - See "dwelling unit."

**(NOT NEEDED IF TIMBER HARVESTING REPEALED) RESIDUAL BASAL AREA** - The average of the basal area of trees remaining on a harvested site.

**(NOT NEEDED IF TIMBER HARVESTING REPEALED) RESIDUAL STAND** - A stand of trees remaining in the forest following timber harvesting and related activities

**RESTAURANT** - An establishment where food and/or beverages are prepared, served, and consumed.

- A. **FAST-FOOD RESTAURANT** - Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises or able to be taken to a table or counter to be consumed.
- B. **STANDARD RESTAURANT** - Restaurants where food and beverages are prepared, served, and consumed primarily within the principal building, and where table service rather than counter service is provided for ordering and serving the food. Standard restaurants also

include cafeteria or buffet-style dining.

**RESUBDIVISION** - The further division of an existing parcel within an approved subdivision or any change to the location of the lot lines therein, or the relocation of any street or lot line in a subdivision.

**RETAIL** - Establishments engaged in the selling of goods or merchandise directly to the consumer and not for resale and in rendering services incidental to the sale of such goods.

**RETAIL, CONVENIENCE** - An establishment primarily engaged in selling food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods directly to the consumer for off-premises consumption. Convenience stores may provide for gasoline refueling facilities.

**RETAIL, MEDICAL SALES** - A retail establishment specializing in the sale of medical supplies, including prescription and nonprescription drugs. Examples include but are not limited to convalescent supply stores, food supplement stores, hearing aid stores, prosthetic stores, home health care supply stores, and sick room supply stores.

**RETAIL, SPECIALTY** - Retail operations that specialize in one type or line of merchandise. Specialty retail does not include auto sales.

**RIGHT-OF-WAY** - A public or private strip of land of a specified width, owned in fee or controlled by easement, which confers legally granted rights of passage and is occupied or intended to be occupied by a street, crosswalk, railroad, road, utility, or other special use. A right-of-way which is controlled by easement shall be recorded in the Kennebec County Registry of Deeds. Said easement on a private right-of-way shall be required to permanently run with the land.

**RIPRAP** - Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**RIVER** - A free-flowing body of water, including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

**RIVERINE** - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**ROAD** - A public or private right-of-way, usually of a rural design, a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**ROOMING HOUSE** - A building in which three or more rooms are kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants for weekly or longer periods, with or without board, for compensation (as distinguished from hotels, motels and tourist homes in which rentals are generally on an overnight basis for transients).

**SALT MARSH** - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly

inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

**SALT MEADOW** - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

**SAPLING** - A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**SEASONAL** - A use of land or structures designed and arranged to be used for less than 10 months in the year.

**SEDIMENTATION** - The deposition of soil particles that have been transported from their site of origin by water, ice, wind, gravity, or other natural means.

**SEEDLING** - A young tree species that is less than four and one half (4.5) feet in height above ground level.

**SELF-SERVICE LAUNDROMATS** - Establishments primarily engaged in operating facilities with coin-operated or similar self-service laundry equipment for customer use on the premises.

**SELF-SERVICE STORAGE UNITS** - A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time where clients retain a key and can independently store and retrieve their goods.

**SERVICES** - Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises. The sale of goods is permitted only when incidental to the providing of services. Examples of services include but are not limited to miscellaneous repair services (excluding automotive repair/services); parking services; rental services; animal boarding/riding services; motion-picture services; amusement and recreation services such as bowling centers, miniature golf courses, pool rooms, and campgrounds; cultural services such as art galleries and botanical and zoological gardens; and other service uses not specifically classified in the Table of Land Uses in the Base Zoning Districts. [4] [Amended 5-7-2015 by Ord. No. 15-070]

**SERVICE DROP** - Any utility line extension which does not cross or run beneath any portion of a water body provided that:

A. In the case of electric service:

- (1) The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- (2) The total length of the extension is less than one thousand (1,000) feet.

B. In the case of telephone service:

- (1) The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

(2) The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**SERVICE STATION** - See "automobile business."

**SETBACK** - The nearest horizontal distance from a lot line or normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**SHOE REPAIR SHOPS** - Establishments primarily engaged in repairing footwear without retailing new footwear.

**SHOPPING CENTER** - A group of commercial establishments planned, developed, and managed as a unit.

**SHORE FRONTAGE** - The length of a lot bordering on a water body or a wetland measured in a straight line between the intersections of the side lot lines with the ~~shoreline at normal high-water elevation.~~

**SHORELAND ZONE** - The land located within 250 feet, horizontal distance, of the normal high-water line of any great pond, ~~or river, or saltwater body;~~ within 250 feet, horizontal distance, of the upland edge of a coastal ~~or freshwater~~ wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet of the normal high-water line of a stream.

**SHORELINE** – The normal high-water line, or upland edge of a freshwater or coastal wetland.

**SIGN, ATTACHED SIGNS** - Any structure, device, letter, banner, symbol or other representation which is used or is in the nature of an advertisement, announcement or direction. "Sign" includes permanent, portable, temporary or mobile (including vehicular signs) signs. "Attached signs" includes those that are permanently attached to a building and supported entirely from it, including those which are mounted flat against a wall and those that are constructed without attachment to a building and are freestanding. "Sign" includes the full sign assembly, including base, poles and other mounting hardware, and message board. Murals painted for the purposes of art or architectural enhancement and containing no advertisement, announcement, or direction shall be excluded from regulation.

**SIGNIFICANT RIVER SEGMENTS** - See 38 M.R.S.A. § 437. Note: No significant river segments exist in Augusta.

**SINGLE-ROOM-OCCUPANCY (SRO) DWELLING UNIT** - A self-contained dwelling unit that provides ambulatory independent living for one resident per unit. Each SRO unit shall be a minimum of 150 square feet in size and a maximum of 375 square feet for non-handicapped-accessible units (or 425 square feet for handicapped-accessible units). Each unit may provide kitchenettes and private bathroom facilities in each unit and/or shared common bathrooms and kitchens. Multiple-family dwellings that incorporate multiple SRO dwelling units may include, but are not required to include, common gathering spaces for residents, program spaces, office space, and common laundry facilities.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) **SKID ROAD OR SKID TRAIL** - A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) **SLASH** - The residue, e.g., treetops and branches, left on the ground after a timber harvest.

**SMALL DISTILLERIES, BREWERIES AND BAKERIES** - Any distillery, brewery or bakery, with or without an associated restaurant or retail component, that occupies less than 5,000 square feet of floor space. Any retail element must be primarily for the sale of the product being produced on site. [Added 10-16-2014 by Ord. No. 14-178]

**SOCIAL SERVICES** - Establishments primarily engaged in providing nonresidential individual and family social assistance services to advance the welfare of citizens in need. A social service may include the following accessory uses: office, medical office, or clinic uses; vocational or trade training; supporting personal services; or a food and goods distribution facility.

**SPECIAL EXCEPTION** - A use which would not generally be appropriate in a particular zoning district, but which, as determined by a two-thirds majority of the Planning Board, if specifically designed to be compatible with both the adjacent physical neighborhood and is designed to advance the purposes of the particular zoning district being contemplated, would support the public safety, health, convenience, and welfare of that district. A special exception for a particular use shall be allowed in a district only if the regulations for that district specifically allow that use and only when the Planning Board finds that such use meets all of the requirements applicable to it as specified in this chapter.

**SPECIAL FLOOD HAZARD AREA** - See "area of special flood hazard."

**SPECIALIZED MEDICAL CLINIC** - A facility that dispenses methadone or medical marijuana to patients. A medical marijuana dispensary may also grow and process the product at the same facility. Typical accessory uses for a medical marijuana dispensary or grow facility may include, but are not limited to, counseling services associated with the medical conditions being treated with medical marijuana, processing and cooking facilities for preparing the marijuana, other treatments for the medical condition being treated with marijuana. In all cases, accessory uses must remain secondary, individually and in aggregate, to the primary use.

**SPECIALTY FOOD MARKET** - A retail operation specializing in a specific type or class of foods, such as an appetizer store; bakery; butcher; delicatessen; fish shop; gourmet shop; or foods associated with a particular nationality, religious observance, dietary practices, or cuisine.

**SPECIALTY PRINT SHOP** - A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, and facsimile sending and receiving, and including offset printing.

**START OF FLOODPLAIN CONSTRUCTION** - The date the building permit was issued, provided the actual start of floodplain construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the



construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of floodplain construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**STEEP SLOPE** - Land area where the inclination of the land's surface from the horizontal is 15% or greater. See "sustained slope."

**STORM-DAMAGED TREE** - A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**STORMWATER RUNOFF** - The waters derived from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses or conduits.

**STREAM** - A free-flowing body of water from the outlet of a great pond or the ~~point of~~ confluence of two perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the ~~edition of a~~ United States Geological Survey on the website of the United States Geological Survey (<http://nhd.usgs.gov>) or the national map7.5-minute-series topographic map, or, if not available, a fifteen-minute-series topographic map, to the point where the stream meets the shoreland zone of another water body or wetland. ~~body of water becomes a river. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.~~ Intermittent streams run six months or less during any twelve-month period. See "tributary stream."

**STREET** - For the purposes of this chapter and for determining minimum road frontage requirements, a street is considered to be any public or private right-of-way of a specified width, or a right-of-way shown on a recordable subdivision plan approved by the Planning Board. Approval of a private right-of-way meeting minimum road frontage requirements shall in no way be construed to imply acceptance by the City of Augusta for purposes of maintenance, improvements or other City services.

**STREET LINE** - The right-of-way line of a street.

**STRUCTURE** - Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected ~~with a fixed location~~ on or in the ground, exclusive of fences, ~~utility~~ poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors, and associated appurtenances, subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8, sidewalks and handicap ramps. The term

includes structures permanently or temporarily located, such as decks, patios, signs, gas or liquid storage tanks that are principally stored above ground and satellite dishes. Any structure having a roof supported by columns or walls. Buildings separated only by party walls or abutting walls without openings shall be deemed to be separate buildings. For floodplain purposes, "structure" means a walled and roofed building and includes a gas or liquid storage tank that is principally above ground.

**SUBDIVISION** - The division of a tract or parcel of land into three or more lots within any five-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five-year period, the construction or placement of three or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five-year period.

- A. In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five years immediately preceding the second division; or the division of the tract or parcel is otherwise exempt under this subchapter.[5]
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- C. A lot of 40 or more acres must be counted as a lot, except when a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in 38 M.R.S.A. § 435 or a municipality's shoreland zoning ordinance.
- D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor of an interest in property held by the donor for a continuous period of five years prior to the division by gift, or gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this subsection is transferred within five years to another person not related to the donor of the exempt real estate as provided in this subsection, then the previously exempt division creates a lot or lots for the purposes of this definition. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this subsection cannot be given for consideration that is more than 1/2 the assessed value of the real estate.

- E. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this subsection is transferred within five years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.
- F. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this subsection is transferred within five years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.
- G. In determining the number of dwelling units in a structure, the provisions of this definition regarding the determination of the number of lots apply, including exemptions from the definition of a "subdivision of land."
- H. Notwithstanding the provisions of this definition, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.
- I. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or otherwise regulates land use activities. A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this subsection takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003, for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this subsection must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.
- J. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of "subdivision" under Subsections **D** and **E**, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

**SUBDIVISION, MAJOR** - Any subdivision involving the development of a street. A major subdivision shall also include those developments which create six or more lots or units, whether on an existing street or on or within a proposed street or street system.

**SUBDIVISION, MINOR** - Any subdivision not involving the development of a street and involving the creation of fewer than six lots or units.

**SUBSTANTIAL FLOODPLAIN DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**SUBSTANTIAL START** - Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**SUBSURFACE WASTEWATER DISPOSAL SYSTEM** - Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), private individual surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413, Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

**SUSTAINED SLOPE** - A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**TAXI AND LOCAL/COMMUTER BUS LINE SERVICE** - Establishments primarily engaged in providing local and suburban passenger transportation. Taxi services utilize cars, trucks, or vans and are generally not operated over regular routes and on regular schedules; establishments of taxicab owner/operators, taxicab fleet operators, or taxicab organizations are included in this industry. Buses are generally operated over regular routes and on regular schedules within a metropolitan area and adjacent nonurban areas.

**TECHNICAL STANDARDS HANDBOOK** - City of Augusta Technical Standards Handbook maintained by the City of Augusta City Services Department.

**TEMPORARY, HABITABLE TRAILERS BUILT ON A PERMANENT CHASSIS TO BE**

**USED AS PORTABLE CLASSROOMS AND/OR OFFICES AND/OR MEDICAL DIAGNOSTIC UNITS FOR A SPECIFIED (LIMITED) TIME AND AS A PUBLIC FACILITY ONLY** - A mobile home, travel trailer, truck trailer, or other structure used as temporary offices to meet a short-term need.

**TEMPORARY OUTDOOR LIGHTING** - The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

**TIDAL WATERS** – All waters affected by tidal action during the highest annual tide.

**TIMBER HARVESTING** - The cutting and removal of timber for the primary purpose of selling or processing forest products, ~~trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads.~~ Timber harvesting does not include the clearing of land for approved construction. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

**(NOT NEEDED IF TIMBER HARVESTING REPEALED) TIMBER HARVESTING AND RELATED ACTIVITIES** - Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**TOURIST HOME** - A building or group of attached or detached buildings containing in combination three to 16 lodging and/or dwelling units for occupancy for daily or weekly periods, with or without board, and primarily for occupancy by transients, as distinguished from multiple dwellings and rooming houses in which the occupancy is primarily by residents rather than transients. A tourist home is not owner-occupied. See "bed-and-breakfast"; see "hotel."

**TRACT OR PARCEL OF LAND** - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

**TREE** - A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**TRIBUTARY STREAM** - A channel between defined banks created by the action of surface water, ~~whether intermittent or perennial, and which is characterized by the lack of terrestrial upland vegetation or presence of aquatic vegetation and~~ by the presence of a bed, devoid of topsoil, containing waterborne deposits ~~or on~~ exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. ~~flows to a water body or wetland as defined.~~ “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream," as defined elsewhere in this chapter, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

**TRUCK TERMINAL** - A structure or land primarily used for the temporary storage and maintenance of motor transport carriers. Truck terminals may also be used for the temporary storage of goods awaiting transfer or wholesale distribution by means of motor carrier transportation.

~~**UPLAND EDGE** - The boundary between upland and wetland.~~

**UPLAND EDGE OF A WETLAND** - The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

**USE** - The purpose for which land or a building or structure or a part thereof is arranged, designed, intended or occupied.

**VARIANCE** - For the purposes of this chapter, means a grant of relief by the Board of Zoning Appeals:

- A. From the terms of a floodplain management regulation; or
- B. From any dimensional requirement of this chapter, in accordance with 30-A M.R.S.A. § 4353, Subsection 4.

**VEGETATION** - All live trees, shrubs, ~~ground cover~~, and other plants, including, without limitation, trees both over and under four inches in diameter measured at 4.5 feet above ground level.

**VETERINARY** - Any building or portion of a building designed or used for the care, observation, or treatment of animals. Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases. A veterinary facility is not a boarding facility.

**VIOLATION** - The failure of a structure, use or other development to fully comply with the regulations found in this chapter.

**WAREHOUSING** - Establishments primarily engaged in operating long-term merchandise and goods storage facilities wherein those goods and merchandise will primarily be used off site. These establishments generally handle goods in containers, such as boxes, barrels, and/or drums, using equipment, such as forklifts, pallets, and racks. They are not specialized in handling bulk products of any particular type, size, or quantity of goods or products.

**WASTE FACILITY** - Any land area, structure, location, equipment, or combination of them, including dumps and landfills, used for handling hazardous or solid waste, sludge, or septage; composting facilities; recycling centers for waste from business, commercial and industrial uses. Tire processing uses and junkyards are also considered waste facilities. A land area shall not become a waste facility solely because it is used by its owner for disposing of septage from the owner's residence. See § 300-526.

- A. **CLASS 1** - Includes recycling centers (as defined); and paper, cardboard, glass, and metals



recycling for business, commerce, and industry.

- B. **CLASS 2** - Includes composting facilities; junkyards; landfills; waste to energy plants; septage handling facilities; tire processing and storage facilities; and hazardous waste handling facilities.

**WATER BODY** - Any great pond, river, or stream~~-or tidal area~~.

**WATER CROSSING** - Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**WATERCOURSE** - A channel, drainageway, stream, brook. Any defined area of land conveying surface water or runoff. A watercourse may be intermittent or perennial (perennial = greater than six months in any twelve-month period).

**WETLAND** - A freshwater or coastal wetland.

~~**WETLAND ASSOCIATED WITH GREAT PONDS AND RIVERS**—Wetlands contiguous with or adjacent to a great pond or river and which, during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with a great pond or river are considered to be part of that great pond or river.~~

~~**WETLAND (FRESHWATER)**—Freshwater swamps, marshes, bogs and similar areas which are:~~

~~A.—Ten or more contiguous acres; or~~

~~B.—Less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres; and~~

~~C.—Inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria or to the definition of "stream."~~

**WHOLESALE** - Establishments primarily engaged in selling and/or distributing merchandise to retailers; industrial, commercial, institutional, or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

(NOT NEEDED IF TIMBER HARVESTING REPEALED) **WINDFIRM** - The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**WOODY VEGETATION - Live trees or woody, non-herbaceous shrubs.**

**YARD, FRONT** - A yard adjoining the front lot line, extending between the principal structure and the street.

**YARD, REAR** - A yard adjoining the rear lot line and extending between the rear lot line and the principal structure.

**YARD, SIDE** - A yard adjoining a side lot line extending from the front lot line to the rear lot line as required by district regulations.